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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,111	05/31/2001	Kenneth D. Comstock	035451-0136 (3652.Palm)	9798
26371	7590	11/03/2004	EXAMINER	
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			CONTEE, JOY KIMBERLY	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/871,111

Applicant(s)

COMSTOCK ET AL.

Examiner

Joy K Contee

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-13, 15-22, 24-30, 32-40, 43-49 and 60-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-13, 15-22, 24-26, 28-30, 32-40, 43-49 and 60-68 is/are allowed.
- 6) ☒ Claim(s) 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. The indicated allowable subject matter claim 27 is withdrawn in view of the newly discovered reference to Brunner et al. (U.S. Patent No. 6,185,414).

Rejections based on the newly cited reference(s) follow.

2. Claims 2-13,15-22,24-26,28-30,32-40,43-49 and 60-68 are allowed

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laybourn, in view of Brunner et al.(Brunner),U.S. Patent No. 6,185,414.

Regarding claim 27, Laybourn discloses an accounting method for crediting an account associated with a network access node, comprising:

receiving a communication event message (i.e., reads on SMS message), wherein the communication event message inherently includes identification data (i.e., inherently SMS messages are addressed for delivery) representing a network access node, wherein the communication event message is received in response to the network access node receiving and forwarding a data signal on behalf of a network user node(i.e., reads on device 10); and

crediting an account associated with the network access node based on the communication event message (col. 3, lines 45-58).

Laybourn fails to disclose wherein the communication event message is received in response to the network access node acting as an access point.

In a similar field of endeavor, Brunner discloses wherein the communication event message is received in response to the network access node acting as an access point (reads on switching node including call event generation means for continually generating real-time call event messages) (col. 2, lines 20-45).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Laybourn to include call even generation means for the purpose of providing real-time debiting rate information (see Brunner, col. 2, lines 40-45).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 703-308-0149. The examiner can normally be reached on M (alternating), T & Th, 5:30 a.m. to 2:00 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2686

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC

10/25/04

  
JOY K. CONTEE  
PATENT EXAMINER